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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/228,103	01/11/1999	HARSH GOPAL	15836-001001	7307

26231 7590 09/03/2003

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DALLAS, TX 75201

EXAMINER

HON, SOW FUN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 09/03/2003

27

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/228,103

Applicant(s)

GOPAL, HARSH

Examiner

Sow-Fun Hon

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 21-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/12/03 has been entered.

***Status of Claims***

2. Claims 16-20 were previously allowed in Paper # 11 (mailed 11/20/01).

***Response to Amendment***

***Claims Withdrawn***

3. The 35 U.S.C. 102(b) and 103(a) rejections in Paper # 20 (mailed 03/13/03) are withdrawn due to Applicant's amendment in Paper # 25 (filed 08/12/03).

***New Rejections***

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 21, 25-31, 33, 36-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tee-Pak (GB 1470726) in view of Clapp et al. (US 5,431,719).

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Tee-Pak teaches an aqueous emulsion (aqueous coating composition) for coating the internal surface of a food (sausage) casing comprising greater than 65 wt % of water (0.5-2.5 % water soluble cellulose derivative (ether), 0.2-2 % diglyceride, 0.25-2% partial fatty acid ester of sorbitan or mannitan, and the balance is essentially water) (column 4a, lines 40-55). The list of water-soluble cellulose derivatives include the list claimed by Applicant. Tee-Pak teaches that the materials are in the proportion of 17-1700 mg/sq meter (0.01-0.1 mg/sq in) of casing surface (column 2b, lines 90-100) so the emulsion which coats from the claimed range of about 200 to 1200 mg per square meter falls in that range. Vegetable, mineral and silicone oils are named as oil lubricants present in at least about 0.05 to 0.25 % (at least 0.1 times the amount of cellulose ether) (column 1b, lines 55-75).

Tee-Pak teaches that the coating composition is to improve peelability (column 2a, lines 15-30) which means that it is a release composition since it releases the food from the casing.

Tee-Pak, however, fails to teach the polyglyceryl ester comprising at least two glyceryl moieties.

Clapp et al. has a composition comprising greater than 65 wt % of water, 2.5 wt % polyglyceryl ester (decaglycerol-decaoleate), 5 wt % of water-insoluble mineral oil, 1 wt % emulsifier (monocalcium phosphate) and diglyceride (column 14, lines 20-70). Clapp et al. teaches that polyglyceryl ester (polyglycerol ester) is added in the amount of from about 0.1 to 6.0 wt % as a supplemental emulsifying agent in order to improve the stability of the (aqueous) emulsion.

Since the composition of Clapp et al. is a release composition (food release) (column 3, lines 30-40) and so is the composition of Tee-Pak, they are analogous art.

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Since Clapp et al. teaches that the polyglyceryl ester is added to the release composition in order to improve the stability of the emulsion, it would have been obvious to one of ordinary skill in the art to have added it to the release composition in the invention of Tee-Pak in order to obtain an aqueous emulsion with improved stability.

6. Claims 22-23, 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammer et al. (US 5,370,914) in view of Clapp et al.

Hammer et al. teaches a coating for the inner surface of a food casing which improves peelability, (meaning that it is a release composition since it releases the food from the casing), and coats from 5 to about 100 mg/ square meter (column 1, lines 5-25). The coating is an aqueous emulsion which comprises release agents/additives of low viscosity oils such as natural oils, silicon oils, emulsifiers, and polyhydric alcohols such as propylene glycol (1,2-propane diol), each one in the amounts of 0.5 to 30 % by weight relative to the total weight of the aqueous solution (column 3, lines 30-65).

Hammer et al. however, fails to teach the polyglyceryl ester comprising at least two glyceryl moieties.

Clapp et al. has a composition comprising greater than 65 wt % of water, 2.5 wt % polyglyceryl ester (decaglycerol-decaoleate), 5 wt % of water-insoluble mineral oil, 1 wt % emulsifier (monocalcium phosphate) and diglyceride (column 14, lines 20-70). Clapp et al. teaches that polyglyceryl ester (polyglycerol ester) is added in the amount of from about 0.1 to 6.0 wt % as a supplemental emulsifying agent in order to improve the stability of the (aqueous) emulsion.

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Since the composition of Clapp et al. is a release composition (food release) (column 3, lines 30-40) and so is the composition of Tee-Pak, they are analogous art.

Since Clapp et al. teaches that the polyglyceryl ester is added to the release composition in order to improve the stability of the emulsion, it would have been obvious to one of ordinary skill in the art to have added it to the release composition in the invention of Hammer et al. in order to obtain an aqueous emulsion with improved stability.

7. Claims 24, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tee-Pak in view of Clapp et al., as evidenced by Colliopoulos et al. (US Patent 3,966,632).

Tee-Pak has been discussed above and teaches a release composition for coating the inside of food casings which contains more than 65 wt % water, and oil release additives, but fails to teach the presence of polyglyceryl ester.

Clapp et al. has been discussed above and teaches a release composition which contains more than 65 wt % water, and oil release additives, the polyglyceryl ester being added to improve stability of the aqueous emulsion. Clapp et al. teaches decaglyceryl-decaoleate as an example but fails to disclose triglyceryl-oleate. It is the examiner's position that the use of lower polyglyceryl esters is a result of routine experimentation and commercial availability as evidenced by Colliopoulos et al.

Colliopoulos et al. teaches that a commercially available polyglyceryl ester emulsifier made from soy bean oil contains a mixture of di-, tri- and tetra polyglyceryl esters, which encompass the triglyceryl-oleates since the examples name many oleates (column 1, lines 15-35).

*Response to Arguments*


8. Applicant's arguments with respect to claims 21-42 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703)308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

SH  
Sow-Fun Hon  
08/22/03

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

8/25/03